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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/274,781 03/24/99 PEIFFER

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EXAMINER

IM22/0201

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CHEN, V

ART UNIT

PAPER NUMBER

1773

DATE MAILED:

02/01/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/274,781

Applicant(s)
PEIFFER et al

Examiner
Vivian Chen

Group Art Unit
1773



☒ Responsive to communication(s) filed on 11-7-00

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-23 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 1-14 and 16-23 is/are allowed.

☒ Claim(s) 15 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

1. The indicated allowability of claim 15 is withdrawn in view of the newly discovered reference(s). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over KIMURA ET AL (US 5,747,174).

KIMURA ET AL discloses a multilayer polyester film comprising of a polyester base layer having a Tg of not higher than 50°C (lines 47-52, col. 2) and outer surface layers composed of a copolyester mainly comprising ethylene terephthalate units and having a Tg of 50°C or more (lines 56-65, col. 3), wherein the polyesters in the film may also contain units derived from naphthalene dicarboxylic acid (lines 20-23, col. 2), and wherein the film has a surface tension of not less than 40 dynes/cm (lines 54-68, col. 8) and may have a functional coating (lines 31-53, col. 6). However, the reference does not disclose the recited thickness of the functional coating.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to adjust the thickness of the functional coating depending on the specific coating material and the desired physical property. One of ordinary skill in the art would have incorporated conventional comonomer units such as ethylene-2,6-naphthalate into the outer layers in order to optimize the Tg and Tm properties for a given application. The Examiner has reason

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to believe that a blend of similar materials like two polyesters having different Tg values would typically have a Tg value which is between the Tg values of the individual components as recited in claim 15, therefore the Examiner has basis for shifting the burden of proof to applicant as in In re Fitzgerald et al., 205 USPQ 594.

Allowable Subject Matter

3. Claims 1-14, 16-23 is allowable over the prior art of record.

4. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach or disclose a multilayer polyester film having the recited Tg₂ relationship between the individual layers and the film as a whole, wherein the at least one outer layer is composed of a blend of at least 40 wt% ethylene-2,6-naphthalate units and up to 40 wt% ethylene terephthalate units. Specifically, KIMURA ET AL fails to teach or suggest a copolyester wherein the main component comprises ethylene-2,6-naphthalate units as the outer layer(s).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (703) 305-3551. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Paul Thibodeau, can be reached on (703) 308-2367.

For Art Unit 1773, the fax phone numbers are as follows:

official faxes:

(703) 305-3601

(703) 305-7718

unofficial faxes:


(703) 305-5436

(703) 305-3602

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is (703) 308-0661.

VC

January 27, 2001



Vivian Chen
Primary Examiner
Group 1700